

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID JAMES MENEFIELD,

Defendant and Appellant.

B226032

(Los Angeles County  
Super. Ct. No. BA347712)

APPEAL from a judgment of the Superior Court of Los Angeles County.  
Charlaine F. Olmedo, Judge. Dismissed.

\_\_\_\_\_  
Jonathan P. Milberg, under appointment by the Court of Appeal, for Defendant  
and Appellant.

No appearance for Plaintiff and Respondent.  
\_\_\_\_\_

We appointed counsel to represent David James Menefield in this matter. After examining the record, counsel filed a *Wende* brief raising no issues on appeal and requesting that we independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) On November 29, 2010, we directed appointed counsel immediately to send the record on this appeal and a copy of the opening brief to Menefield and notified Menefield that within 30 days from the date of the notice he could submit by brief or by letter any grounds of appeal, contentions or argument he wished us to consider. Menefield did not respond.

We briefly describe the facts and procedural history of the case, the crimes of which Menefield was convicted and the punishment imposed. (*People v. Kelly* (2006) 40 Cal.4th 106, 110.) The preliminary hearing transcript reflects that in late September and early October 2008, Menefield attempted to purchase 40 to 100 kilograms of cocaine from a “Columbian Connection.” The “Columbian Connection” in reality was an undercover agent of the California Department of Justice who did his negotiating through an informant. Following a series of earlier meetings, the informant and Menefield met at the home of Menefield’s girlfriend. Menefield displayed over one million dollars in cash to the informant. In a telephone conversation the informant told his officer “handler” that Menefield had become extremely excited, expressed his intent to leave, and had threatened the informant with a large knife. As law enforcement officers approached, Menefield and his cohorts fled but were detained a short distance away. During the execution of a search warrant on the condominium, the million plus dollars in cash and Menefield’s back pack, which contained, among other things, his driver’s license and a loaded handgun, were seized. A review of Menefield’s “rap sheet” reveals he had been previously convicted for unlawful carrying of a concealed firearm and for evading a police officer.

Menefield pleaded no contest to conspiracy to commit a crime, to wit, purchasing cocaine for sale in violation of Health and Safety Code section 11351 (Pen. Code, § 182, subd. (a)(1)) (count 1); possession of money or instruments over \$100,000 either obtained

through unlawful cocaine trafficking or possessed with the intent unlawfully to purchase cocaine (Health & Saf. Code, § 11370.6, subd. (a)) (count 3); and possession of firearm by a felon with one prior (Pen. Code, § 12021, subd. (a)(1)) (count 4). As to count 1, Menefield admitted the special allegation that the cocaine exceeded one kilogram by weight (Health & Saf. Code, § 11370.4, subd. (a)(1)).<sup>1</sup>

Pursuant to the plea bargain, the trial court sentenced Menefield to prison for the total term of six years, consisting of the three-year middle term on count 1 and the three-year weight enhancement (Health & Saf. Code, § 11370.4, subd. (a)(1)). The court also sentenced Menefield to the three-year middle term on count 3 and the three-year upper term on count 4, which sentences were ordered to be served concurrently with the count 1 sentence.

We have examined the entire record and are satisfied that Menefield's appointed attorney has fully complied with his responsibilities and that no arguable issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

As noted, Menefield did not respond to our letter advising him that he could submit any grounds of appeal he wished us to consider. In his notice of appeal, Menefield assigned as reversible error claims of ineffective assistance of counsel; prosecutorial misconduct; and "gross governmental misconduct." When a defendant pleads no contest to a felony charge "no appeal shall be taken by the defendant from a

---

<sup>1</sup> We note that the information alleged the cocaine exceeded over 20 kilograms by weight, which would have resulted in a 15-year enhancement if admitted (Health & Saf. Code, § 11370.4, subd. (a)(4)). The record does not reflect this allegation was stricken and that the one kilogram by weight allegation, which carries a three-year enhancement, was substituted. In any event, at the hearing, the prosecutor asked Menefield: "[D]o you admit the special allegation that you possessed over one kilogram of . . . cocaine, in violation of Health and Safety Code section 11370.4 subsection (a) subsection (1)?" Menefield responded: "That was subsection (1); correct?" The prosecutor confirmed: "Correct. That would be over one kilogram." After Menefield and his counsel "conferred sotto voce," Menefield announced: "I admit it."

During the preliminary hearing, at the People's request, count 2 of the complaint was dismissed. The information contains no count 2. Count 5 and the remaining allegations in the information were subsequently dismissed by the People (Pen. Code, § 1385).

judgment of conviction upon a plea of . . . nolo contendere” unless the trial court files a certificate of probable cause. (Pen. Code, § 1237.5, subd. (b).) No certificate of probable cause was filed in this case, and no exceptions to the rule apply. Therefore, the appeal must be dismissed. (*People v. Earls* (1992) 10 Cal.App.4th 184, 188-189; Cal. Rules of Court, rule 8.304(b)(4).)

#### DISPOSITION

The appeal is dismissed.

NOT TO BE PUBLISHED.

ROTHSCHILD, Acting P. J.

We concur:

CHANEY, J.

JOHNSON, J.